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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,604	09/28/2006	Guillaume Giraudet	45201-011US1	4990
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OCCHIUTI ROHLICEK & TSAO, LLP				
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CAMBRIDGE, MA 02138				
EXAMINER				
SHAFFER, RICKY D				
ART UNIT		PAPER NUMBER		
2872				
NOTIFICATION DATE		DELIVERY MODE		
06/12/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Office Action Summary

Application No.

10/594,604

Applicant(s)

GIRAUDET, GUILLAUME

Examiner

Ricky D. Shafer

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7 and 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lowe ('112).

Lowe discloses viewing device comprising at least one polarizing transparent viewing element (502, 504), wherein said polarizing transparent viewing element having an optical surface divided into several zones (510, 512, 514, 516, 518...etc.) associated with respective light-polarizing filters (see Fig. 16), light passing through said element being affected differently in two of said zones depending on a polarization direction of said light (see column 3, lines 15-41), wherein the orientation of the polarizing filter of a first zone of the several zones is oblique relative to a horizontal direction in an use position of the element with an angle between the orientation of the filter and the horizontal direction different from 90° and from 0° (see i.e., the lower area or portion of element 502 or 504 which located to the left or the right of the vertical center axis of element 502 or 504), said first zone being located in a lower portion of the optical surface with respect to the use position of the element (see Fig. 16), a second zone of the several zones is associated with a polarizing filter oriented horizontally with respect to the use position of the element (see i.e., the upper area or portion of element 502 or 504 which located adjacent the vertical center axis of element 502 or 504), the first zone associated with the obliquely oriented polarizing filter being located, in the use position of the element, below the second zone

associated with the horizontally oriented polarizing filter (see Fig. 16); and a third zone (530, 540) of the several zones is associated with a polarizing filter oriented vertically with respect to the use position of the element (see Fig. 16), said third zone being located in a lateral portion of the element with respect to its use position (see Fig. 16), wherein the oblique orientation of the polarizing filter of the first zone in the use position of the element makes an angle of between 125° and 145° to said horizontal direction (see column 14, lines 3-43 along which Fig. 16), wherein the first zone associated with the obliquely oriented polarizing filter is adjacent a lower edge of the element (see Fig. 16), and wherein said element comprising two third zones (530 and 540) associated with respective polarizing filters oriented vertically with respect to the use position of the element, and wherein said two third zones being located in opposed lateral portions of the element (see Fig. 16). Note figures 16 and 17 along with the associated description thereof.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe ('112).

Lowe discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the upper boundary of the first zone is between an optical center of said element and a point 20 mm or 10 mm below the optical center of the element.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify the size of the element of Lowe to satisfy the claimed size, as recited by applicant, in order to meet certain user specifications, since such a modification would involved a mere change in same of a component. A change in size is generally recognized as being within the level of one of ordinary skill in the art Note In re Rose, 105 USPQ 237 (CCPA 1955).

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe ('112) .

Lowe discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the third zone associated with the vertically oriented polarizing filter extends over a width going from an external lateral edge of said element to a point at a distance of between 5 mm and 75 mm or 5 mm to 30 mm therefrom, measured along a straight line going from said lateral edge toward the optical center of said element

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the size of the element of Lowe to satisfy the claimed size, as recited by applicant, in order to meet certain user specifications, since such a modification would involved a mere change in same of a component. A change in size is generally recognized as being within the level of one of ordinary skill in the art Note In re Rose, 105 USPQ 237 (CCPA 1955).

6. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe ('112) .

Lowe discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the two third zones are separated by a distance of between 10 mm and 60 mm, between 10 mm and 40 mm, or between 20 mm and 40 mm, in a central portion of said element.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the size of the element or third zones of Lowe to satisfy the claimed size, as recited by applicant, in order to meet certain user specifications, since such a modification would involved a mere change in same of a component. A change in size is generally recognized as being within the level of one of ordinary skill in the art Note In re Rose, 105 USPQ 237 (CCPA 1955).

7. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe ('112).

Lowe discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the transparent viewing element constitutes a lens of a pair of spectacles, a visor of a helmet or a visor of a mask.

It is well known to use polarizing transparent viewing elements constituting lens of spectacles, visors of helmets or visor of masks in the same field of endeavor for the purpose of reducing dazzle or glare.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the form or shape of the transparent viewing element of Lowe to constitute a lens of a pair of spectacles, a visor of a helmet or a visor of a mask, as commonly used and employed in the art, in order to similarly reduce dazzle or glare.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

June 05, 2009

/Ricky D. Shafer/
Primary Examiner
Art Unit 2872